

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA

V. CRIMINAL ACTION NO. 5:19-CR-3-KHJ-LGI-1
BORIS WARD

ORDER

Before the Court is Defendant Boris Ward's [299] Motion.¹ The Court defers ruling on Ward's request to vacate his sentence under Section 2255. *See* [299] at 2; Mem. Supp. Mot. to Vacate [300]. The Court denies as moot Ward's alternative request for leave to file out of time. [299] at 2. And the Court denies without prejudice Ward's alternative request for leave to amend. *Id.*

The Court defers ruling on Ward's request to vacate his sentence under Section 2255. *See* [299] at 2; [300]. As explained, preliminary consideration of Ward's claims established that summary dismissal of Ward's Section 2255 motion is not warranted.

The Court denies as moot Ward's request to file an out-of-time Section 2255 motion. [299] at 2. He already filed a timely one. *See* [299]; [300]. Indeed, he filed his [299] Motion and [300] Memorandum in Support of Motion to Vacate under 28 U.S.C. § 2255 within a year of when his conviction became final. *See* 28 U.S.C.

¹ The [299] Motion was docketed as a "Motion to Vacate under 28 U.S.C. 2255," "Motion for Leave to File Out of Time," and "Motion for Leave to Amend."

§ 2255(f)(1); Writ of Certiorari Denied [291] (January 8, 2024); Envelope [299-5] (stamped January 3, 2025).²

And the Court denies without prejudice Ward's request for "leave to amend his [Section 2255 motion] after he obtains his transcripts and case file." [299] at 2. If Ward obtains those documents, he may then move for leave to amend under Federal Rule of Civil Procedure 15, including a "proposed amendment" to his Section 2255 motion. *United States v. Gonzalez*, 592 F.3d 675, 679–80 (5th Cir. 2009) (per curiam). Of course, the Court expresses no view on whether such an amendment would be timely.

The Court has considered all arguments. Those not addressed would not have changed the outcome. For the stated reasons, the Court DEFERS RULING in part and DENIES in part Ward's [299] Motion. The Court defers ruling on Ward's request to vacate his sentence under Section 2255. *See* [299] at 2; [300]. And the Court denies Ward's alternative requests for leave to file out of time and for leave to amend. [299] at 2.

SO ORDERED, this 5th day of March, 2025.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE

² "A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing." Rule 3(d) of Rules Governing Section 2255 Proceedings for the United States District Courts.